

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 726

Introduced by Senator Florez

February 22, 2005

An act to amend Section 361.4 of, and to add Sections 366.23 and 366.24 to, the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as amended, Florez. Dependent children.

Existing law governs dependency proceedings in the juvenile court, including status review hearings, reunification services, and proceedings to determine whether to return a child to his or her parent or legal guardian, or to terminate parental rights. Existing law requires, until January 1, 2010, social workers to visit the homes of, and to conduct criminal records checks of all persons living in the homes of, relatives and prospective guardians or other persons who are not licensed or certified foster parents before placing children in those homes.

This bill would enact "Adam's Law," which would require social workers to visit the home of, and conduct criminal records checks of all persons living in the home of, a noncustodial parent prior to the placement of a child who has been removed from the custody of the other parent in that home. The bill would also require social workers to prepare, and the court to consider, reports regarding the observations of foster parents, as specified, prior to returning a child to the custody of a parent or legal guardian. By imposing new duties on county employees, the bill would impose a state-mandated local program.

This bill would also require a court to require the social worker to conduct a 2nd home visit, as specified. Until that 2nd home visit occurs, the court would retain jurisdiction over that child. The bill would further require a court to order a parent or legal guardian to complete one or more parenting classes after reunification with a child under 6 years of age who had been placed in foster care.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as
2 “Adam’s Law.”
3 SEC. 2. Section 361.4 of the Welfare and Institutions Code is
4 amended to read:
5 361.4. (a) Prior to placing a child in the home of a
6 noncustodial parent or other relative, or the home of any
7 prospective guardian or other person who is not a licensed or
8 certified foster parent, the county social worker shall visit the
9 home to ascertain the appropriateness of the placement.
10 (b) Whenever a child may be placed in the home of a
11 noncustodial parent or other relative, or the home of any
12 prospective guardian or other person who is not a licensed or
13 certified foster parent, the court or county social worker placing
14 the child shall cause a state and federal level criminal records
15 check to be conducted by an appropriate governmental agency
16 through the California Law Enforcement Telecommunications
17 System (CLETS) pursuant to Section 16504.5. The criminal
18 records check shall be conducted with regard to all persons over
19 the age of 18 years living in the home, and on any other person
20 over the age of 18 years, other than professionals providing
21 professional services to the child, known to the placing entity

1 who may have significant contact with the child, including any
 2 person who has a familial or intimate relationship with any
 3 person living in the home. A criminal records check may be
 4 conducted pursuant to this section on any person over the age of
 5 14 years living in the home who the county social worker
 6 believes may have a criminal record. Within five judicial days
 7 following the criminal records check conducted through the
 8 California Law Enforcement Telecommunications System, the
 9 social worker shall ensure that a fingerprint clearance check of
 10 the relative and any other person whose criminal record was
 11 obtained pursuant to this subdivision is initiated through the
 12 Department of Justice to ensure the accuracy of the criminal
 13 records check conducted through the California Law
 14 Enforcement Telecommunications System and shall review the
 15 results of any criminal records check to assess the safety of the
 16 home. The Department of Justice shall forward fingerprint
 17 requests for federal level criminal history information to the
 18 Federal Bureau of Investigation pursuant to this section.

19 (c) Whenever a child may be placed in the home of a
 20 noncustodial parent or other relative, or a prospective guardian or
 21 other person who is not a licensed or certified foster parent, the
 22 county social worker shall cause a check of the Child Abuse
 23 Index pursuant to subdivision (a) of Section 11170 of the Penal
 24 Code to be requested from the Department of Justice. The Child
 25 Abuse Index check shall be conducted on all persons over the age
 26 of 18 years living in the home.

27 (d) (1) If the criminal records check indicates that the person
 28 has no criminal record, the county social worker and court may
 29 consider the home of the noncustodial parent or other relative,
 30 prospective guardian, or other person who is not a licensed or
 31 certified foster parent for placement of a child.

32 (2) If the criminal records check indicates that the person has
 33 been convicted of a crime that would preclude licensure under
 34 Section 1522 of the Health and Safety Code, the child may not be
 35 placed in the home, unless a criminal records exemption has been
 36 granted by the county, based on substantial and convincing
 37 evidence to support a reasonable belief that the person with the
 38 criminal conviction is of such good character as to justify the
 39 placement and not present a risk of harm to the child pursuant to
 40 paragraph (3).

1 (3) (A) A county may issue a criminal records exemption only
2 if that county has been granted permission by the Director of
3 Social Services to issue criminal records exemptions. The county
4 may file a request with the Director of Social Services seeking
5 permission for the county to establish a procedure to evaluate and
6 grant appropriate individual criminal records exemptions for
7 persons described in subdivision (b). The director shall grant or
8 deny the county's request within 14 days of receipt. The county
9 shall evaluate individual criminal records in accordance with the
10 standards and limitations set forth in paragraph (1) of subdivision
11 (g) of Section 1522 of the Health and Safety Code, and in no
12 event shall the county place a child in the home of a person who
13 is ineligible for an exemption under that provision.

14 (B) The department shall monitor county implementation of
15 the authority to grant an exemption under this paragraph to
16 ensure that the county evaluates individual criminal records and
17 allows or disallows placements according to the standards set
18 forth in paragraph (1) of subdivision (g) of Section 1522 of the
19 Health and Safety Code.

20 (4) The department shall conduct an evaluation of the
21 implementation of paragraph (3) through random sampling of
22 county exemption decisions.

23 (5) The State Department of Social Services shall not evaluate
24 or grant criminal record exemption requests for persons
25 described in subdivision (b), unless the exemption request is
26 made by an Indian tribe pursuant to subdivision (f).

27 (6) If a county has not requested, or has not been granted,
28 permission by the State Department of Social Services to
29 establish a procedure to evaluate and grant criminal records
30 exemptions, the county may not place a child into the home of a
31 person described in subdivision (b) if any person residing in the
32 home has been convicted of a crime other than a minor traffic
33 violation, except as provided in subdivision (f).

34 (e) Nothing in this section shall preclude a county from
35 conducting a criminal background check that the county is
36 otherwise authorized to conduct using fingerprints.

37 (f) Upon request from an Indian tribe, the State Department of
38 Social Services shall evaluate an exemption request, if needed, to
39 allow placement into an Indian home that the tribe has designated
40 for placement under the Indian Child Welfare Act (25 U.S.C.

Sec. 1901 et seq.) that would otherwise be barred under this section. However, if the county with jurisdiction over the child that is the subject of the tribe's request has established an approved procedure pursuant to paragraph (3) of subdivision (d), the tribe may request that the county evaluate the exemption request. Once a tribe has elected to have the exemption request reviewed by either the State Department of Social Services or the county, the exemption decision may only be made by that entity. Nothing in this subdivision limits the duty of a county social worker to evaluate the home for placement or to gather information needed to evaluate an exemption request.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. Section 366.23 is added to the Welfare and Institutions Code, to read:

366.23. (a) Prior to ordering the return of a child to the physical custody of his or her parent or legal guardian, the court shall order the social worker to prepare a report containing information obtained from an interview with the foster parents of the child regarding the needs of the child and any relevant additional information regarding the child, including, but not limited to, the behavior of the parent or legal guardian of the child as observed by the foster parent while the child resided with the foster parent. The social worker shall interview the foster parents and report to the court in a timely manner. The court may not return a child to the physical custody of his or her parents until the court has received and considered this report.

(b) (1) Notwithstanding any other provision of this part, the court may not return a child who is within the jurisdiction of the juvenile court pursuant to Section 300 and who has been removed from the physical custody of his or her parent or guardian, to the physical custody of that parent or guardian, unless the court requires the social worker to conduct a second home visit and to make a written report to the court regarding the child's living conditions within the home within a reasonable period of time after the child is returned to the physical custody of the parent or guardian. If a second home visit is not completed within a reasonable period of time after the child is returned to

1 the physical custody of the parent or guardian, or if the social
2 worker conducts a second home visit and makes a determination
3 in a written report to the court that the home in which the child
4 will reside is not ~~clean and~~ safe and adequate to ensure the
5 continued safety and protection of the child, the child shall be
6 removed from the home.

7 (2) Pursuant to paragraph (1), a child shall remain within the
8 jurisdiction of the juvenile court after he or she is returned to the
9 physical custody of his or her parent or guardian until the social
10 worker completes the second home visit and determines that the
11 home is ~~clean, safe,~~ *safe* and adequate to ensure the continued
12 safety and protection of the child.

13 SEC. 4. Section 366.24 is added to the Welfare and
14 Institutions Code, to read:

15 366.24. If a dependent child of the court who had been
16 placed in foster care is returned to the physical custody of his or
17 her parent or legal guardian and if that child is less than six years
18 of age, the court shall order the parent or legal guardian to
19 complete one or more parenting classes subsequent to his or her
20 reunification with the child.

21 SEC. 5. If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.